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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D 2004 64103

CHARLIE KIM, P.T.
115 Canyon Drive
Bowersville, Georgia

A C C U S A T I O N

Physical Therapist License. No. PT 23378

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about July 17, 1998, the Physical Therapy Board of California issued Physical Therapist license No. Number PT 23378 to Charlie Kim (Respondent). The Physical Therapist License No. PT 23378 was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2006, unless renewed.

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4. Section 2609 of the Code states:

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

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1 (i) Conviction of a violation of any of the provisions of this
2 chapter or of the State Medical Practice Act, or violating, or attempting to
3 violate, directly or indirectly, or assisting in or abetting the violating of, or
4 conspiring to violate any provision or term of this chapter or of the State
5 Medical Practice Act.

6 (j) The aiding or abetting of any person to violate this chapter
7 or any regulations duly adopted under this chapter.

8 (k) The aiding or abetting of any person to engage in the
9 unlawful practice of physical therapy.

10 (l) The commission of any fraudulent, dishonest, or corrupt act
11 which is substantially related to the qualifications, functions, or duties of a
12 physical therapist or physical therapy assistant.

13 (m) Except for good cause, the knowing failure to protect
14 patients by failing to follow infection control guidelines of the board,
15 thereby risking transmission of blood-borne infectious diseases from
16 licensee to patient, from patient to patient, and from patient to licensee. In
17 administering this subdivision, the board shall consider referencing the
18 standards, regulations, and guidelines of the State Department of Health
19 Services developed pursuant to Section 1250.11 of the Health and Safety
20 Code and the standards, regulations, and guidelines pursuant to the
21 California Occupational Safety and Health Act of 1973 (Part 1
22 (commencing with Section 6300) of Division 5 of the Labor Code) for
23 preventing the transmission of HIV, Hepatitis B, and other blood-borne
24 pathogens in health care settings. As necessary, the board shall consult
25 with the Medical Board of California, the California Board of Podiatric
26 Medicine, the Board of Dental Examiners of California, the Board of
27 Registered Nursing, and the Board of Vocational Nursing and Psychiatric

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1 Technicians, to encourage appropriate consistency in the implementation
2 of this subdivision.

3 The board shall seek to ensure that licensees are informed of the
4 responsibility of licensees and others to follow infection control
5 guidelines, and of the most recent scientifically recognized safeguards for
6 minimizing the risk of transmission of blood-borne infectious diseases.

7 (n) The commission of verbal abuse or sexual harassment.

8 6. Section 2661 of the Code states:

9 A plea or verdict of guilty or a conviction following a plea of nolo
10 contendere made to a charge of a felony or of any offense which substantially
11 relates to the qualifications, functions, or duties of a physical therapist is deemed
12 to be a conviction within the meaning of this article. The board may order the
13 license suspended or revoked, or may decline to issue a license, when the time for
14 appeal has elapsed, or the judgement of conviction has been affirmed on appeal or
15 when an order granting probation is made suspending the imposition of sentence,
16 irrespective of a subsequent order under Section 1203.4 of the Penal Code
17 allowing that person to withdraw his or her plea of guilty and to enter a plea of not
18 guilty, or setting aside the verdict of guilty, or dismissing the accusation,
19 information, or indictment.

20 7. Section 2661.5 of the Code states:

21 (a) In any order issued in resolution of a disciplinary
22 proceeding before the board, the board may request the administrative law
23 judge to direct any licensee found guilty of unprofessional conduct to pay
24 to the board a sum not to exceed the actual and reasonable costs of the
25 investigation and prosecution of the case.

26 (b) The costs to be assessed shall be fixed by the administrative
27 law judge and shall not in any event be increased by the board. When the
28 board does not adopt a proposed decision and remands the case to an

1 administrative law judge, the administrative law judge shall not increase
2 the amount of the assessed costs specified in the proposed decision.

3 (c) When the payment directed in an order for payment of costs
4 is not made by the licensee, the board may enforce the order of payment by
5 bringing an action in any appropriate court. This right of enforcement shall
6 be in addition to any other rights the board may have as to any licensee
7 directed to pay costs.

8 (d) In any judicial action for the recovery of costs, proof of the
9 board's decision shall be conclusive proof of the validity of the order of
10 payment and the terms for payment.

11 (e)(1) Except as provided in paragraph (2), the board shall not
12 renew or reinstate the license or approval of any person who has failed to
13 pay all of the costs ordered under this section.

14 (2) Notwithstanding paragraph (1), the board may, in its
15 discretion, conditionally renew or reinstate for a maximum
16 of one year the license or approval of any person who
17 demonstrates financial hardship and who enters into a
18 formal agreement with the board to reimburse the board
19 within that one year period for those unpaid costs.

20 (f) All costs recovered under this section shall be deposited in
21 the Physical Therapy Fund as a reimbursement in either the fiscal year in
22 which the costs are actually recovered or the previous fiscal year, as the
23 board may direct.

24 **CAUSE FOR DISCIPLINE**

(Conviction of a Crime)

25 [Bus. & Prof. Code §§ 2660 (d) and 2661]

26 8. Respondent is subject to disciplinary action under sections 2660 (d) and
27 2661 of the Code for having been convicted in February 2004 of battery upon his spouse. The
28 circumstances are as follows:

1 9. On or about December 27, 2004, in Los Angeles County Superior Court,
2 Case No. 4CR15811, Respondent was convicted by a nolo contendere plea to violating Penal
3 Code sections 242-243 (e) (Battery Against Former Spouse) a misdemeanor, and section 422
4 (Making a Terrorist Threat), a misdemeanor. As to the first conviction (Penal Code sections
5 242-243 (e)), Respondent's sentence included 36 months summary probation and he was
6 sentenced to 51 days in the county jail. As to the second conviction (Penal Code section 422),
7 Respondent's sentence also included 36 months summary probation, and the weapon (knife)
8 involved in the case was ordered confiscated and destroyed. Respondent was also ordered not to
9 annoy, harass, or molest anyone involved in the case, and that he was not to own, possess, use,
10 buy or sell any dangerous weapons including firearms, knives, or other concealable weapons.

11 10. The above convictions arise from a domestic dispute which began on or
12 about November 22, 2004, and involved Respondent arguing with his spouse at a residence
13 where they resided with their common child of six months, and the wife's two minor children
14 from a previous relationship. During the argument, Respondent armed himself with a knife,
15 removed the sheath, and placed the knife in his pocket and threatened to kill himself, his wife
16 and the whole family. The wife took the children and hid in a closet for three hours in fear of
17 Respondent. In the early morning hours of the following day, Respondent threatened to punch
18 his minor stepdaughter, and his wife attempted to block his path. Respondent grabbed his wife,
19 pulled her off the ground, and threw her to the floor while she was holding their two month old
20 baby. Neither the wife nor baby was injured. Sometime later on or about November 23, 2004,
21 police were summoned and Respondent was arrested.

22 11. Respondent's above conviction constitutes a violation of sections 2660 (d)
23 and 2661 of the Code in that it involves a crime which is substantially related to the
24 qualifications, functions, or duties of a physical therapist.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

- 1. Revoking or suspending Physical Therapist License No. PT 23378 issued to Charlie Kim ;
- 2. Ordering Charlie Kim to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.3;
- 3. Taking such other and further action as deemed necessary and proper.

DATED: August 19, 2005

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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Kim Accusation.wpd